



Office of the Attorney General  
State of Texas

September 10, 1998

DAN MORALES  
ATTORNEY GENERAL

Mr. Kevin D. Pagan  
Assistant City Attorney  
City of McAllen  
P.O. Box 220  
McAllen, Texas 78505-0220

OR98-2145

Dear Mr. Pagan:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 117866.

The City of McAllen (the "city") received a request for offense report #98-18282. You contend that the offense report is excepted from disclosure under section 552.108 of the Government Code. You also contend that section 58.007 of the Family Code deems the offense report confidential.<sup>1</sup>

Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007 of the Family Code. Section 58.007 applies to the records of a child who is ten years of age or older and under seventeen years of age, or who is seventeen years of age or older and under eighteen years of age and has engaged in delinquent conduct or conduct indicating a need for supervision before becoming seventeen years of age. Fam. Code § 51.02(2). The offense report at issue documents the conduct of a seven year old child and an eight year old child. Thus, section 58.007 does not apply to the offense report.

Section 552.108 of the Government Code provides as follows:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if: (1) release of the information would interfere with the detection, investigation or prosecution of crime; (2) it is information that deals with the

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<sup>1</sup>Your letter to this office cites to section 51.14 of the Family Code. We note, however, that the Seventy-fourth Legislature repealed section 51.14 of the Family Code and replaced with section 58.007 of the Family Code. Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Gen. Laws 2517, 2591 (Vernon). The Seventy-fifth Legislature also amended section 58.007 of the Family Code. Act of June 2, 1997, 75th Leg., R.S., ch. 1086, 1997 Tex. Sess. Law Serv. 4179, 4187 (Vernon). It

detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or (3) it is information that: (A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or (B) reflects the mental impressions or legal reasoning of an attorney representing the state.

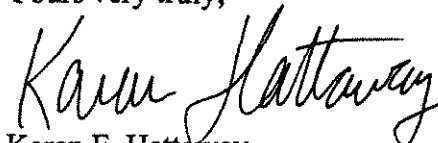
(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of Section 552.021 if: (1) release of the internal record or notation would interfere with law enforcement or prosecution; (2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication; or (3) the internal record or notation: (A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or (B) reflects the mental impressions or legal reasoning of an attorney representing the state.

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

A governmental body claiming an exception to disclosure must explain how the exception applies to the information at issue. *See* Gov't Code § 552.301(b)(1); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You have made a conclusory assertion that section 552.108 applies to the requested offense report, but you have not offered any arguments to support this assertion. Therefore, we conclude that section 552.108 does not except the offense report from disclosure, and the city must release the offense report to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in cursive script, reading "Karen Hattaway".

Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/mjc

Ref: ID# 117866

Enclosures: Submitted documents

cc: J.C. Swearingen  
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(w/o enclosures)